

Appl. No. 10/017,768

Amendment dated April 5, 2004

Reply to Non-Final Office Action of November 17, 2003

REMARKS

Claims 1-25 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. The Examiner has pointed out that the percentages of components (a) and (b) do not correlate with the ratios given for them. In order to obviate this rejection, Applicants have amended claims 1 and 25 so that the ratios and percentages of components (a) and (b) are no longer inconsistent with each other. Accordingly, Applicants respectfully request the withdrawal of this rejection.

Claims 1-25 are rejected under 35 USC 103(a) as being unpatentable over Duffy et al. (US 6,020,367). Applicants respectfully traverse.

Duffy et al. disclose a method of preparing a super-saturated solution of ascorbic acid in polyols. The Examiner refers to xanthan gum as being a cationic polymer. Applicants respectfully disagree. Xanthan gum is considered an anionic polymer. Further, Duffy et al. prefer the use of non-ionic emulsifiers. Applicants' invention utilizes cationic compounds as surfactants.

The formulations of the reference are devoid of water. It is known that water destabilizes ascorbic acid solutions. However, Applicants have discovered that it is possible to formulate a solution of ascorbic acid, as defined in the claims, so as to avoid the deleterious effects on the long term stability of such solutions.

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Duffy et al. have not recognized the value of such specific formulation.

Applicants have demonstrated that ascorbic acid formulations containing polyols exhibit very poor long term stability. Applicants' Examples 12 (A) and 12 (B) show that such formulations degrade noticeably while standing at room temperature over a period of just one month (in excess of 10%). The formulations of Duffy et al. clearly fail to provide the desired level of stability over time that is available with the specific formulation of Applicants.

For all the reasons set forth above, it is respectfully submitted that the present invention would not have been obvious to one skilled in the art at the time the invention was made in view of Duffy et al. Applicants kindly request the withdrawal of this rejection.

CONCLUSION

In view of the amendments and remarks above, Applicants ask for reconsideration and allowance of all pending claims. Applicants further ask for extension of the period for response to be extended two months to April 17, 2004 and authorize a charge to Deposit Account No. 01-1250 in the amount of \$420.00 for the extension fee. Order No. 04-0111. Should any fees be due for entry and consideration of this Amendment that have not been

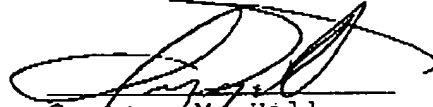
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accounted for, the Commissioner is authorized to charge them to Deposit Account No. 01-1250.

Respectfully submitted,



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